

# **EXHIBIT 8**

**Kendler, Owen**

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**From:** Kendler, Owen  
**Sent:** Wednesday, December 12, 2007 1:51 PM  
**To:** 'jgolding@point2.com'  
**Subject:** U.S. v. National Association of Realtors

Mr. Golding,

Thank you for talking with us about Point2's willingness to voluntarily produce documents to the Division and the status of Mr. King with the company. As we discussed, I have attached for your review a schedule of the documents to be voluntarily submitted. Let me know if you have any difficulty opening the pdf. We look forward to discussing our requests with you once you have had the opportunity to look them over.

Please let us know at your earliest convenience if Mr. King or another Point2 representative will be appearing as a trial witness for the NAR and whether Point2 will agree to voluntarily comply with our requests.

Thank you,  
Owen



54704\_1.pdf

Owen Kendler  
Trial Attorney  
Antitrust Division, Litigation III  
United States Department of Justice  
325 Seventh St., N.W.  
Suite 300, LPB  
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**SCHEDULE OF DOCUMENT REQUESTS FOR**  
**POINT2 TECHNOLOGIES, INC.**

**I. INSTRUCTIONS**

1. Unless otherwise specified, the documents requested in this schedule are only those documents in the possession, or custody of Point2 Technologies, Inc. ("Point2") that were applicable, prepared, dated or received at any time from January 1, 2004, to the present. Please refer to the appendix below for definitions of many of the terms used in this schedule.

2. Please produce documents as they are kept in the usual course of business or organized and labeled to correspond with the categories in this schedule. In either event, please identify the persons from whose files the documents have been taken for production. When documents that in their original condition were stapled, clipped, or otherwise fastened together please produce them in such form.

3. Please produce documents or data maintained by Point2 in electronic form in a reasonably accessible electronic form. Contact the attorneys for the United States to determine, with the assistance of the appropriate government technical officials, how to produce the information in data formats and choices of media that will be accessible to the government's equipment and resources. When Point2 provides documents or data in electronic form, it should also provide documents sufficient to show what information is contained in the data and how it is obtained, such as a data manual or data entry instructions.

4. To the extent Point2 objects to the production of any document or portion of a document based on a claim of privilege, please identify the nature of the privilege (including work product) that is being claimed and provide (a) the type of document, *e.g.*, letter or memorandum; (b) the general subject matter of the document; (c) the date of the document; and (d) such other

information as is sufficient to identify the document, including, the author of the document, the addressees of the document, and any other recipients shown in the document.

## II. DOCUMENT REQUESTS

1. **Business and Strategic Plans.** Excluding documents related solely to Point2's heavy equipment business, please submit: (a) one example of each document that Point2 provided its investors or creditors, or to potential investors or creditors; (b) all strategic plans, business plans, and forecasts prepared by, reviewed by, or disseminated to Point2's senior management; and (c) all documents prepared by, reviewed by, or disseminated to Point2's senior management relating to entities that Point2 considers to be its competitors in any market for any product or service that Point2 provides or has considered providing.

Attached to this Schedule of Document Requests is a December 11, 2007 article from *Inman News* about recent executive resignations at Point2. Please provide all documents regarding Point2's "new directions" and "strategy and direction going forward" as discussed in the *Inman News* article.

2. **Members.** Please submit documents sufficient to show: (a) each real estate broker who is or, since January 1, 2004, has been, a member of or subscriber to Point2's NLS; (b) the name, address, and telephone number of the brokerage company with which each such broker is or was affiliated; (c) any identifying code or number that Point2 uses or used to refer to each such broker; and (d) the multiple listing service(s) to which the broker belongs.

3. **Board, Association, and Multiple Listing Service Members.** Please submit documents sufficient to identify each board or association of realtors, or multiple listing service who is or, since January 1, 2004, has been, a customer of Point2; and any identifying code or number that Point2 uses or used to refer to each such customer.

4. **Agreements.** One example of each agreement that Point2 establishes with agents or brokers (*e.g.*, the standard, professional, and premium agreements); and one example of each agreement that Point2 establishes with multiple listing services, boards, or associations.

5. **Listing Data Fields.** Documents (such as forms for submitting listings and the instructions for such forms) sufficient to show the fields or categories of real estate listing information that: (a) brokers are required to provide when submitting a listing to Point2; (b) brokers are permitted to provide when submitting a listing to Point2; (c) Point2 displays on its website with each property listing; (d) Point2 makes available to brokers for display to display on their public websites with each property listing; and (e) members or participants in Point2's NLS are able to access or view about listings submitted to Point2's NLS by other members or participants.

6. **Listing Information:** Documents sufficient to show the number and percentage of active listings maintained by Point2 that include: (a) a cooperative compensation offer; (b) the listing's street address; (c) the listing's multiple listing service number (*i.e.* the number assigned to the listing by the broker's local or regional MLS); (d) past price changes for the listing; (e) showing instructions; and (f) days on market.

7. **Listings Share:** Documents discussing the share or percentage of active listings in any area within the United States displayed by Point2 or represented in Point2's NLS.

8. **Rules.** One copy of each set of current or past rules, regulations, policies, or principles relating to Point2's NLS, listings, arbitration, or ethics.

9. **User Manuals.** One copy of each set of user manuals or instructions relating to the use of Point2 by multiple listing services, boards or associations of realtors, brokers, or other real estate professionals.

10. **Compliance.** Documents sufficient to show how Point2: (1) enforces its rules, regulations, policies, or procedures; and (2) ensures the accuracy and timeliness of listings, data fields concerning the listings, and the status of the listings (*e.g.* active, pending, withdrawn, under contract, sold).

11. **MLS Membership.** Each document discussing the withdrawal from any multiple listing service by any Point2 member or participant, or the participation or non-participation of any Point2 member or participant in any multiple listing service.

12. **Listings data.** All listings data, including all data relating to any active listings, expired listings, withdrawn listings, or listings of properties that were sold for the following metropolitan areas and regions:

Atlanta and Dekalb County, GA	Ithaca, NY
Austin, TX	Jackson, WY
Bakersfield, CA	Las Vegas, NV
Boston and Central Massachusetts	Maine
Charlotte, NC	Monroe County, FL
Chicago, IL	Orlando, FL
Cleveland, OH	Philadelphia, PA
Columbia, NY	Phoenix, AZ

Dallas/Fort Worth Region	Portland, OR
Denver, CO	San Diego, CA
Detroit, MI	Tampa, FL
Emporia, KS	Tulsa, OK
Fargo, ND	Washington/Baltimore Region
Hays KS	York, PA

The United States is prepared to discuss the contours of the above areas with Point2 and to provide Point2 metrics (*e.g.* county names or zip codes) that would give greater definition to the this request. In the alternative, if it is easier for Point2 to produce the all listings in the United States rather than for the select market areas, the United States would be willing to take receipt of the larger database.

13. **DOJ investigation and suit.** Each document discussing the lawsuit in which this document request was issued (*United States v. National Association of Realtors*, Civil Action No. 05 C 5140 (N.D. Ill.)), or the Department of Justice investigation that preceded the filing of this lawsuit, including all communications with the National Association of Realtors and its representatives (*e.g.* attorneys and experts).

#### IV. APPENDIX

The United States sets forth the following definitions applicable to this schedule:

A. “Point2” means Point2 Technologies, Inc., its domestic and foreign parents, predecessors, divisions, subsidiaries, affiliates, partnerships, and joint ventures, and all directors, officers, employees, agents, and representatives of the foregoing.

B. “And” and “or” are terms of inclusion and not of exclusion, and shall be construed either disjunctively or conjunctively as necessary to bring within the scope of this Schedule any document or response that might otherwise be construed to be outside its scope.

C. “Broker” means a person licensed by a state to provide services to a buyer or seller in connection with a real estate transaction. The term includes any person who lawfully possesses a broker’s license, any Realtor, and any agent or sales associate who is affiliated with a broker.

D. “Cooperative compensation offer” means the compensation offered by an agent or broker to other agents or brokers for their services in the sale of the agent or broker’s listing, or how the term is otherwise defined by the National Association of Realtors in its *Handbook on Multiple Listing Policy* (2007).

E. “Discussing” means analyzing, constituting, summarizing, reporting on, commenting on, considering, recommending, setting forth, or describing a subject, regardless of the length of the discussion. Documents that merely mention or refer to a subject without further elaboration do not discuss that subject. Documents discussing a particular subject include all documents that contain reports, studies, forecasts, analyses, calculations, plans, proposals, evaluations, recommendations, directives, procedures, policies, guidelines, or any other comments that address or concern the subject.

F. “Document” means all written, recorded, and graphic materials and all electronic data of every kind in the possession, custody, or control of the company. The term “documents” includes spreadsheets, as well as underlying cell formulae and other codes. The term “documents” also includes electronic mail messages and other documents and data stored in, or accessible through, computer or other information retrieval systems, such as personal computers, portable computers, workstations, portable or removable storage media, mainframes, servers, backup disks and tapes, archive disks and tapes, and other forms of online or offline storage, whether on or off company premises.

G. “Each” includes “every” and vice versa.



H. “Including” means including, but not limited to.

I. “Listing” means a record of a residential property for sale and any information relating to that property stored or maintained by Point2’s MLS.

J. “MLS” means a multiple listing.

K. “Person” means any natural person, corporation, company, partnership, joint venture, firm, association, proprietorship, agency, board, authority, commission, office or other business or legal entity, whether private or governmental.

L. “Plans” means tentative and preliminary proposals, recommendations, or considerations, whether or not finalized or authorized, as well as those that have been adopted.

M. “Point2’s NLS” refers to Point2’s national listing and advertising service for real estate professionals, or how the term is otherwise defined in Point2’s *Principles & Practices* (2007) or on its website at <http://nls.point2.com/Content/FAQ.asp> as of December 11, 2007.

N. “Relating to” means, in whole or in part, discussing, describing, pertaining to, referring or alluding to, reflecting, containing, analyzing, reporting on, commenting on, evidencing, constituting, setting forth, considering, recommending, or concerning.

O. “Rule” means any bylaw, policy, guideline, operating procedure, operating rule, or other agreed upon practice, whether formal or informal.

## Finley, Timothy

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**From:** Jason Golding [jgolding@point2.com]  
**Sent:** Monday, February 04, 2008 3:01 PM  
**To:** Finley, Timothy  
**Cc:** Kendler, Owen  
**Subject:** RE: U.S. v. National Association of Realtors  
**Signed By:** jgolding@point2.com  
**Security Label:** Signed

Hi Tim,

In response to your last email below, I shall note the following:

1. I am unfamiliar with any correspondence between our employees and Joshua Nixt. I have personally never heard the name. We had a number of senior employees resign on December 3, 2007. I can not say for certain that one or more of them did not have correspondence with Mr. Nixt but his name was never mentioned in any executive or manager meetings to my knowledge. If you have knowledge of correspondence between any of said employees and Mr. Nixt, please indicate the applicable employees and we will search their records and/or attempt to contact them to derive the applicable documentation.

2. As per your questions:

*"First, could you explain what you mean when you write that Point2 has 'provided the documents that we have identified as relevant.' Does this mean that you have provided all documents responsive to the requests, or is it possible that certain responsive documents were not produced because Point2 determined they were not relevant?"*

The answer is that we have provided all documents responsive to the requests.

*"Second, were the documents produced by Point2 prepared or used during the ordinary course of its business, or were some of them created for the purpose of responding to our request for documents?"*

These documents were used in the ordinary course of our business.

*"Third, we did not see any documents that appear to come from Carey Tufts' files. If it has not done so already, would Point2 be willing to search his files as well?"*

Mr. Tuft's stepped into a senior position after the aforementioned resignations and as such has had no contact before or subsequent to NAR employees. While he may have prepared documents in his own files, Point2 employees a "wiki" document sharing concept so they are available to other employees. Mr. Tufts has posted on [www.reliberation.com](http://www.reliberation.com) extensively as the editor of said blog. His posts are catalogued fully for the public at such site. I doubt that many of said documents and/or posts are relevant, but I will let you and your staff be the judge of that by reviewing said site as you desire.

Regards,

2/6/2008

Jason Golding  
CFO/General Counsel  
Point2 Technologies Inc.  
Phone: (306) 955-9736 ext. 215  
Fax: (306) 955-0471  
www.point2.com

-----Original Message-----

From: Finley, Timothy [mailto:Timothy.Finley@usdoj.gov]  
Sent: Tuesday, January 29, 2008 2:07 PM  
To: Jason Golding  
Cc: Kendler, Owen  
Subject: RE: U.S. v. National Association of Realtors

Jason,

To answer the first of your questions, our request does include documents or internal notes or e-mails relating to communications between Point2 and NAR's outside legal counsel. As to your second question, we believe that Point2 communicated on one or more occasions with Joshua Nixt, a consultant retained by NAR in this case, and possibly others in the same communication(s). We ask that Point2 produce any documents, internal notes or e-mails embodying or relating to these communications. We do not know if there are other documents embodying or relating to communications between Point2 and any other NAR employees or representatives, so we are asking that those be produced if they exist.

With respect to our document request no. 1, we have already sought to make this request as narrow as possible. We are unable to narrow it further without possibly excluding relevant documents, especially since we do not know what responsive documents Point2 has. If there is a specific type of document that you believe can be excluded from your response without compromising our need to obtain relevant documents, we can discuss this with you.

As to request no. 2, we tried to reconstruct information about Point2's members using publicly available information from its website, but were unable to do so in a systematic or reliable way. If this information is publicly available, we believe Point2 should be willing to provide it to us in a readily accessible form.

As I mentioned earlier, there is a protective order in this case which protects confidential third party information from unnecessary disclosure. Like other third parties who have produced evidence in this case, Point2 can make any production of confidential information subject to the provisions of this order, a copy of which is enclosed.

Finally, we would appreciate a few clarifications regarding your responses to the remaining requests. First, could you explain what you mean when you write that Point2 has "provided the documents that we have identified as relevant." Does this mean that you have provided all documents responsive to the requests, or is it possible that certain responsive documents were not produced because Point2 determined they were not relevant? Second, were the documents produced by Point2 prepared or used during the ordinary course of its business, or were some of them created for the purpose of responding to our request for documents? Third, we did not see any documents that appear to come from Carey Tufts's files. If it has not done so already, would Point2 be

2/6/2008

willing to search his files as well?

Thanks and hope you enjoy your holidays.

Tim

-----Original Message-----

From: Jason Golding [mailto:jgolding@point2.com]  
Sent: Thursday, January 24, 2008 4:24 PM  
To: Finley, Timothy  
Cc: Kendler, Owen  
Subject: RE: U.S. v. National Association of Realtors

Hi Tim,

As discussed with Owen, I am leaving for holidays today until February 4th.

I have attempted to reply to your queries. Any further inquiries will have to wait until after I return from holidays.

I can say that if there is any correspondence between Point and NAR on the matter, we have no problem providing such. Does this include NAR's external legal counsel as that is, to my recollection, the extent of my contact with them?

If you are referring to other correspondence you believe occurred, can you please narrow down the individuals in Point2 who you believe has had such correspondence so I can derive such from them?

I can confirm that, based on the request made, I have provided the documents that we have identified as relevant except for the requests in 1. and 2. As discussed, we do not wish to provide the documents in 1. and less the DOJ is more specific in said requests. As for question 2., I provided you with knowledge of where such information can be acquired as public information and will not voluntarily turn over customer records.

Regards,

Jason Golding  
CFO/General Counsel  
Point2 Technologies Inc.  
Phone: (306) 955-9736 ext. 215  
Fax: (306) 955-0471  
www.point2.com

-----Original Message-----

2/6/2008

From: Finley, Timothy [mailto:Timothy.Finley@usdoj.gov]  
Sent: Thursday, January 24, 2008 12:56 PM  
To: Jason Golding  
Cc: Kendler, Owen  
Subject: RE: U.S. v. National Association of Realtors

Jason,

Thanks for speaking to me on January 15th and again on the 18th concerning our requests that Point2 voluntarily provide us with documents in advance of the deposition of Point2's representative, Carey Tufts. While we are pleased that Point2 has voluntarily provided some of the documents we have requested, we need documents responsive to our first and second requests before we can question Mr. Tufts at deposition or trial. Accordingly, we wanted to let you know that we are moving forward with the letters rogatory process, which as I mentioned is the formal procedure for the United States to obtain documents from a Canadian company.

This is a burdensome, expensive and time-consuming process which typically takes months and sometimes years to complete. The Court in our case has ordered that trial begin on July 7, 2008 and has indicated that the parties should complete any remaining discovery promptly. For this reason, we continue to believe that the best course would be for Point2 to voluntarily provide all of the documents we are requesting. We note Point2 has agreed - on a voluntary basis and at NAR's request - to provide a witness at trial. Point2 should also be willing to voluntarily provide all documents that are relevant to the testimony of that witness, and we hope that Point2 will agree to do so.

With respect to our remaining requests, would you please confirm that all responsive documents have been produced? We note by way of example that we did not receive any emails between NAR and Point2 (request no. 13), though we believe such communications occurred.

Tim

-----Original Message-----

From: Jason Golding [mailto:jgolding@point2.com]  
Sent: Tuesday, January 15, 2008 5:38 PM  
To: Finley, Timothy  
Cc: Kendler, Owen  
Subject: RE: U.S. v. National Association of Realtors

Hi Tim,

Thanks for the call today. I have reviewed the PDF requesting documents.

The following are the applicable documents requested and Point2's intention to provide or not to provide. I will attempt to provide them before I leave on holidays as of January 24th, 2008.

1. Business and strategic plans - Will not provide
2. Members - Will not provide
3. Board, Association and MLS members - N/A at present
4. Agreements - Will provide
5. Listing Data Fields - will provide screenshots of listing entry

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system  
 and detailed listings that can be viewed publicly  
 6. Listing Information - Will provide where available  
 7. Listings Share - Will provide as available  
 8. Rules - Will provide as available  
 9. User Manual - Will provide  
 10. Compliance - Will provide  
 11. MLS Membership - N/A at present  
 12. Listings data - Will provide in aggregate where available  
 13. DOJ investigation and suit - Will provide as available

My understanding all along that any production of documents by Point2 was voluntary due to our jurisdiction. This is the basis of us withholding documents as above. If this is not the case, then I will provide additional reasons.

Jason Golding  
 CFO/General Counsel  
 Point2 Technologies Inc.  
 Phone: (306) 955-9736 ext. 215  
 Fax: (306) 955-0471  
 www.point2.com

-----Original Message-----

From: Finley, Timothy [mailto:Timothy.Finley@usdoj.gov]  
 Sent: Tuesday, January 15, 2008 3:11 PM  
 To: Jason Golding  
 Cc: Kendler, Owen  
 Subject: RE: U.S. v. National Association of Realtors

Jason, as discussed during our call today, please let us know when you expect to send us the documents. You also mentioned that you may have some objections to our requests - please let us know what they are and we will try to work with you on that. Once we agree on a date by which the documents will be produced, we can then schedule the deposition.  
 Thanks.

Tim

> -----Original Message-----

> From: Kendler, Owen  
 > Sent: Tuesday, January 15, 2008 4:04 PM  
 > To: 'jgolding@point2.com'  
 > Cc: Finley, Timothy  
 > Subject: FW: U.S. v. National Association of Realtors

>

> Jason,

>

> Below is the email with the document request attached.

>

> --Owen

> -----Original Message-----

2/6/2008

> From: Kendler, Owen  
> Sent: Wednesday, December 12, 2007 1:51 PM  
> To: 'jgolding@point2.com'  
> Subject: U.S. v. National Association of Realtors  
>  
> Mr. Golding,  
>  
> Thank you for talking with us about Point2's willingness to voluntarily  
produce documents to the Division and the status of Mr. King with the  
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you once you have had the opportunity to look them over.  
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> Please let us know at your earliest convenience if Mr. King or an  
another  
Point2 representative will be appearing as a trial witness for the NAR  
and  
whether Point2 will agree to voluntarily comply with our requests.  
>  
> Thank you,  
> Owen  
>  
> << File: 54704\_1.pdf >>  
> Owen Kendler  
> Trial Attorney  
> Antitrust Division, Litigation III  
> United States Department of Justice Tel: (202)  
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> 325 Seventh St., N.W. Fax: (202) 514-7308  
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